

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Robert Kwan, Presiding
Courtroom 1675 Calendar**

Friday, April 07, 2017

Hearing Room 1675

9:00 AM

2:15-13630 Tae Woon Kim and Chung Hee Kim

Chapter 7

#1.00 Cont'd status conference re: Motion to Avoid Lien 17955 Valley Boulevard,
Bloomington, CA 92316 with Hee Ok
fr. 11/1/16, 11/8/16, 1/26/17, 4/6/17

Docket 24

***** VACATED *** REASON: Case dismissed on 3/28/17-mb.**

Tentative Ruling:

Updated tentative ruling as of 4/5/17. Off calendar. The motion is moot since the underlying bankruptcy case was dismissed on 3/28/17. No appearances are required on 4/7/17.

Prior tentative ruling as of 4/3/17. Settlement is pending in this matter, and the court on its own motion vacates the hearing on the matter. No appearances are required on 4/6/17 or 4/7/17.

Prior tentative ruling as of 1/23/17. No updated tentative ruling on the merits. Appearances are required on 1/26/17.

Prior tentative ruling as of 11/7/16. No updated tentative ruling on the merits. Appearances are required on 11/8/16.

Prior tentative ruling as of 10/31/16. No updated tentative ruling on the merits. Appearances are required on 11/1/16.

Prior tentative ruling as of 10/17/16. No updated tentative ruling on the merits. Appearances are required on 10/18/16.

Prior tentative ruling as of 1/4/16. No updated tentative ruling on the merits. Appearances are required on 1/5/16 to discuss scheduling of this and related matters, but counsel may appear by telephone.

Prior tentative ruling as of 11/9/15. No updated tentative ruling on the merits. Appearances are required on 11/10/15, but counsel may appear by telephone.

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Chapter 7

Prior tentative ruling as of 9/28/15. No tentative ruling on the merits.
Appearances are required on 9/29/15, but counsel may appear by telephone.

Prior tentative ruling. Treat motion to avoid lien as a contested matter under FRBP 9014 since there are disputed issues of material facts as to whether the other claimed unavowed liens are bona fide liens or fraudulent transfers. The court intends to set a schedule of pretrial and trial proceedings, and the parties should meet and confer regarding their pretrial and trial needs and scheduling. Appearances are required on 7/28/15.

Party Information

Debtor(s):

Tae Woon Kim

Represented By
Christian T Kim

Joint Debtor(s):

Chung Hee Kim

Represented By
Christian T Kim

Movant(s):

Tae Woon Kim

Represented By
Christian T Kim

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

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Chapter 7

#2.00 Cont'd status conference re: Motion to Avoid Lien 21222 Stockton Pass Road, Walnut, CA 91789 with Hee Ok Jung
fr. 11/1/16, 11/8/16, 1/26/17, 4/6/17

Docket 23

***** VACATED *** REASON: Case dismissed on 3/28/17-mb.**

Tentative Ruling:

Updated tentative ruling as of 4/5/17. Off calendar. The motion is moot since the underlying bankruptcy case was dismissed on 3/28/17. No appearances are required on 4/7/17.

Prior tentative ruling as of 4/3/17. Settlement is pending in this matter, and the court on its own motion vacates the hearing on the matter. No appearances are required on 4/6/17 or 4/7/17.

Prior tentative ruling as of 1/23/17. No updated tentative ruling on the merits. Appearances are required on 1/26/17.

Prior tentative ruling as of 11/7/16. No updated tentative ruling on the merits. Appearances are required on 11/8/16.

Prior tentative ruling as of 10/31/16. No updated tentative ruling on the merits. Appearances are required on 11/1/16.

Prior tentative ruling as of 10/17/16. No updated tentative ruling on the merits. Appearances are required on 10/18/16.

Prior tentative ruling as of 1/4/16. No updated tentative ruling on the merits. Appearances are required on 1/5/16 to discuss scheduling of this and related matters, but counsel may appear by telephone.

Prior tentative ruling as of 11/9/15. No updated tentative ruling on the merits. Appearances are required on 11/10/15, but counsel may appear by telephone.

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Chapter 7

Prior tentative ruling as of 9/28/15. No tentative ruling on the merits.
Appearances are required on 9/29/15, but counsel may appear by telephone.

Prior tentative ruling. Treat motion to avoid lien as a contested matter under FRBP 9014 since there are disputed issues of material facts as to whether the other claimed unavowed liens are bona fide liens or fraudulent transfers. The court intends to set a schedule of pretrial and trial proceedings, and the parties should meet and confer regarding their pretrial and trial needs and scheduling. Appearances are required on 7/28/15.

Party Information

Debtor(s):

Tae Woon Kim

Represented By
Christian T Kim

Joint Debtor(s):

Chung Hee Kim

Represented By
Christian T Kim

Movant(s):

Tae Woon Kim

Represented By
Christian T Kim

Trustee(s):

Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh

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Chapter 7

Adv#: 2:15-01312 Jung v. Kim et al

#3.00 Cont'd status conference re: Complaint to 1. Determine non-dischargeability of debt [11 U.S.C. §523(a)(2)]; 2. Determine non-dischargeability of debt [U.S.C. §523(a)(4)]; 3. Determine non-dischargeability of debt [11 U.S.C. §523(a)(6)]
fr. 11/8/16, 1/26/17, 4/6/17

Docket 1

***** VACATED *** REASON: Case dismissed on 3/28/17-mb.**

Tentative Ruling:

Updated tentative ruling as of 4/5/17. Off calendar. The adversary proceeding is moot since the underlying bankruptcy case was dismissed on 3/28/17. No appearances are required on 4/7/17.

Prior tentative ruling as of 4/3/17. Settlement is pending in this matter, and the court on its own motion vacates the hearing on the matter. No appearances are required on 4/6/17 or 4/7/17.

Prior tentative ruling as of 1/23/17. No updated tentative ruling on the merits. Appearances are required on 1/26/17.

Prior tentative ruling as of 11/7/16. No updated tentative ruling on the merits. Appearances are required on 11/8/16.

Prior tentative ruling as of 10/31/16. No updated tentative ruling on the merits. Appearances are required on 11/1/16.

Updated tentative ruling as of 10/17/16. No updated tentative ruling on the merits. Appearances are required on 10/18/16.

Prior tentative ruling as of 1/4/16. No updated tentative ruling on the merits. Appearances are required on 1/5/16 to discuss scheduling of this and related matters, but counsel may appear by telephone.

Updated tentative ruling as of 11/9/15. No updated tentative ruling. Appearances are required on 11/10/15 to discuss scheduling of this and

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CONT... Tae Woon Kim

Chapter 7

related matters, but counsel may appear by telephone.

Prior tentative ruling as of 10/26/15. Set discovery completion date of 5/31/16 and a pretrial conference for 6/27/16 at 2:00 p.m. Parties are ordered to submit a joint pretrial stipulation as required by LBR 7016-1. Order the matter to mediation under the court's mediation program, parties to file a request for selection of mediator and alternate by 11/30/15 and complete mediation by 6/27/16. Plaintiff to submit a proposed scheduling order within 7 days of hearing. Appearances are required on 10/27/15, but counsel may appear by telephone.

Prior tentative ruling as of 9/4/15. Off calendar. The court continues the status conference on its own motion to 10/27/15 at 1:30 p.m.

Prior tentative ruling. Continued by stipulation and order to 9/8/15 at 2:30 p.m. No appearances are required on 8/18/15.

Party Information

Debtor(s):

Tae Woon Kim

Represented By
Christian T Kim

Defendant(s):

Chung Hee Kim

Pro Se

Tae Woon Kim

Pro Se

Joint Debtor(s):

Chung Hee Kim

Represented By
Christian T Kim

Plaintiff(s):

Hee Ok Jung

Represented By
Jeremy Cook

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

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Edward M Wolkowitz (TR)

Represented By
Juliet Y Oh
Lindsey L Smith

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

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Chapter 7

Adv#: 2:15-01263 Jung v. Kim et al

#4.00 CONT'D TRIAL RE: Notice of removal of superior court case to this chapter 7 case to initiate adversary proceeding fr. 11/1/16, 11/8/16, 1/26/17, 4/6/17

Docket 1

***** VACATED *** REASON: Case dismissed on 3/28/17-mb.**

Tentative Ruling:

Updated tentative ruling as of 4/5/17. Off calendar. The adversary proceeding is moot since the underlying bankruptcy case was dismissed on 3/28/17. No appearances are required on 4/7/17.

Prior tentative ruling as of 4/3/17. Settlement is pending in this matter, and the court on its own motion vacates the hearing on the matter. No appearances are required on 4/6/17 or 4/7/17.

Prior tentative ruling as of 1/25/17. The court issues the following tentative rulings for trial:

The parties may make at their option a brief opening statement (15 minutes or less), but the court has read the trial briefs and does not believe opening statements are necessary.

Plaintiff's objections to trial declaration of Tae Woon Kim:

Paragraph 7 - sustain
Paragraph 16 - overrule
Paragraph 23 - sustain
Paragraph 28 - no tentative - a party may still move to withdraw a deemed admission during trial to prevent manifest injustice.
Conlon v. United States, 474 F.3d 616, 623 and n. 5 (9th Cir. 2007). If no motion to withdraw or amend admission, sustain. FRCP 36(b); 999 v. CIT Corp., 776 F.2d 866, 869 (9th Cir. 1985)

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The court is inclined to sustain its own objection to the entire trial declaration of Tae Woon Kim for lack of foundation in that the witness admits in Paragraph 28 that he is not fluent in English and needs a translator/interpreter. FRE 601-604, 901. No foundation is made that he was fluent enough to write his declaration in English and/or a declaration by a competent Korean English language translator/interpreter is provided as required by FRE 604.

Plaintiff's objections to trial declaration of Nancy Kim:

Paragraph 4: sustain
Paragraph 8: sustain
Paragraph 10: sustain
Paragraph 11: sustain
Paragraph 12: sustain
Paragraph 13: sustain
Paragraph 14: sustain
Paragraph 15: sustain
Paragraph 17: sustain

The following are preliminary impressions of the papers as opposed to tentative rulings:

The court is not persuaded by Plaintiff's argument that fraudulent transfers under California law are voidable only and not void and that remedies do not exist beyond those specifically allowed under the UFTA or UFCA. There is not much case law under California Civil Code 3439.10 to support Plaintiff's argument. The legal authorities are divided. See Peter Spero, Fraudulent Transfers, Prebankruptcy Planning and Exemptions, Section 3:10 (Westlaw online ed., August 2016 update).

Defendants' evidence that the transfers were bona fide seems weak; the documentary evidence of a loan lacks sufficient authentication under FRE 901.

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If the transfer is voidable under the UFTA, the fraudulent transfer claims are time- barred in that they were not brought within 4 years of transfers in January 2006, within 1 year of discovery upon recordation in October 2007 or 7 years from the transfers in January 2006. California Civil Code 3439.09(a), (c),

Even if the transfer is void, the fraudulent transfer claims are time-barred under California Code of Civil Procedure 338(d) in that they were not brought within 3 years of deemed discovery after recordation of the trust deeds constituting the transfers or encumbrances in October 2007.

Prior tentative ruling as of 1/23/17. No tentative ruling will be issued for trial. Appearances are required on 1/26/17.

Prior tentative ruling as of 11/7/16. No updated tentative ruling on the merits. Appearances are required on 11/8/16.

Prior tentative ruling as of 10/31/16. No tentative ruling on the merits. Appearances are required on 11/1/16.

Prior tentative ruling as of 10/17/16. No tentative ruling on the merits. The parties did not state any objections to the exhibits listed in the joint pretrial stipulation as required by LBR 7016-1. Either all of the exhibits will be received into evidence or the joint pretrial stipulation is incomplete and will need to be amended with a continuance of the pretrial conference. Appearances are required on 10/18/16. If all exhibits are admitted, then the court will discuss scheduling of trial.

Prior tentative ruling as of 1/4/16. No updated tentative ruling on the merits. Appearances are required on 1/5/16 to discuss scheduling of this and related matters, but counsel may appear by telephone.

Prior tentative ruling as of 11/9/15. The court has reviewed the joint status report. Given that the status of the parties and counsel is still in flux, the court believes that it is appropriate to conduct the status conference as scheduled, but the parties and counsel should be prepared to discuss the status of

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matters, such as the application of Moon & Dorsett for employment as special counsel for the trustee as substituted party for creditor Hee Ok Jung, the alleged assignment of claims of defendants Hyun Park, In Sun Kim and Jeong Sik Kim to Nancy Kim, whether Nancy Kim will be filing a motion to intervene, whether defendants will be filing a motion for summary judgment (the court is not sure why they would if they have assigned their claims to Nancy Kim), and whether the matter may be ordered to mediation, and for whom. Appearances are required on 11/10/15, but counsel may appear by telephone.

Prior tentative ruling as of 9/28/15. No tentative ruling on the merits. Appearances are required on 9/29/15, but counsel may appear by telephone.

Prior tentative ruling as of 7/27/15. Based on the court's tentative ruling on the pending motion for remand, the parties should meet and confer regarding scheduling of pretrial and trial proceedings if the court adopts the tentative ruling on the remand motion as its order. If remand is denied, removing parties will be ordered to file copies of the complete state court record immediately, or sanctions will be imposed against counsel for those parties. Appearances are required on 7/28/15.

Prior tentative ruling. The court has reviewed the joint status report in this action removed from state court. Plaintiff represents that plaintiff intends to have the action remanded and that there are pending motions, but based on the court's review of the docket, there is no pending motion to remand.

Set discovery completion date of 3/31/16 and set a post-discovery status conference for 4/26/16 at 1:30 p.m. Order the matter to mediation under the court's mediation program, and parties to file a request for selection of mediator and alternate by 8/31/15 and to complete mediation by 4/26/16.

Appearances are required on 6/23/15, but counsel may appear by telephone. At the status conference, the parties should indicate whether they consent to the bankruptcy court rendering a final judgment in this adversary proceeding since fraudulent transfer claims within the meaning of *Stern v. Marshall*, 564 U.S. ___, 131 S.Ct. 2594 (2011), are involved. See *Wellness International Network, Ltd. v. Sharif*, ___ U.S. ___, 2015 WL 2456619 (opinion filed May 26,

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2015). If not, the bankruptcy court will try the matter under procedures approved in Executive Benefits Insurance Agency v. Arkison, 134 S.Ct. 2165 (2014) whereby the bankruptcy court as a non-Article III tribunal will issue proposed findings of fact and conclusions of law for review and approval by the United States District Court for the Central District of California as an Article III tribunal.

Defendants as removing parties are ordered to submit a proposed scheduling order setting forth the court's rulings within 7 days of hearing.

Party Information

Debtor(s):

Tae Woon Kim

Represented By
Christian T Kim

Defendant(s):

In Sun Kim

Pro Se

Jeong Sik Kim

Pro Se

Hyun Park

Pro Se

Chung Hee Kim

Represented By
Christian T Kim

Tae Woon Kim

Represented By
Christian T Kim

Joint Debtor(s):

Chung Hee Kim

Represented By
Christian T Kim

Plaintiff(s):

Hee Ok Jung

Pro Se

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

Edward M Wolkowitz (TR)

Represented By

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Tae Woon Kim

Juliet Y Oh

Chapter 7

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Friday, April 07, 2017

Hearing Room 1675

2:00 PM

2:13-14135 Art and Architecture Books of the 21st Century

Chapter 11

#5.00 Hearing re: Emergency motion of plan agent to approve stipulation with AERC
Desmond's Tower, LLC in contemplation of global settlement, and amending stay order

Docket 2235

Tentative Ruling:

No tentative ruling will be issued for the emergency motion heard on shortened notice. Appearances are required on 4/7/17, but counsel may appear by telephone.

Party Information

Debtor(s):

Art and Architecture Books of the

Represented By
Thomas M Geher
David W. Meadows
Jerome S Cohen
Carolyn A Dye